

Agenda D 3
Rules Committee
March 1963

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

Summary of Report

The annexed report recommends that an Advisory Committee on Uniform Rules of Evidence for the United States District Courts be appointed by the Chief Justice, together with a reporter or reporters, but only after the Supreme Court has indicated informally its approval of proceeding with the Evidence project.

The report also recommends that the Special Committee on Evidence, having completed its assignment, be discharged.

REPORT OF THE COMMITTEE ON RULES OF
PRACTICE AND PROCEDURE

TO THE JUDICIAL CONFERENCE OF THE UNITED STATES:

Your Committee on Rules of Practice and Procedure met in Washington on February 25, 1963. All the members of the Committee were present. Mr. Shafroth and Mr. Spaniol of the Administrative Office were also present.

Election of Secretary

The Committee received the resignation of Aubrey Gasque, former Assistant Director of the Administrative Office, as Secretary of the Committee and elected Will Shafroth, Deputy Director of the Administrative Office as Secretary of the standing Committee and ex officio, as Secretary of the Advisory Committees. The Committee adopted a resolution expressing its gratitude for the excellent service which Mr. Gasque had rendered for and with the Committee as its Secretary in the improvement of federal judicial procedure.

Uniform Rules of Evidence

The Special Committee appointed to consider the feasibility and desirability of formulating uniform rules of evidence for the Federal

Courts presented its final report, which your Committee unanimously approved. A copy of the report is annexed hereto as Appendix "A".

In accordance with the report of the Special Committee, your Committee reports that it is feasible and desirable to formulate uniform rules of evidence to be adopted by the Supreme Court for the United States District Courts. Your Committee accordingly recommends that an advisory committee on rules of evidence be appointed by the Chief Justice consisting of approximately 15 members broadly representative of all segments of the profession, with special emphasis on trial lawyers and trial judges, and that a reporter, or reporters, to the advisory committee be appointed by the Chief Justice. Your Committee suggests, however, that the appointment of the advisory committee and reporter be deferred until after the Supreme Court has indicated informally its approval of proceeding with the project.

The Special Committee on Evidence has asked to be discharged, and since its assignment has been completed your Committee recommends that its request be granted.

Advisory Committee on Criminal Rules

The Advisory Committee on Criminal Rules held a meeting on October 1-3, 1962 and gave tentative approval to amendments to a large number of the Rules of Criminal Procedure. These amendments have

been prepared by your Committee in printed form and circulated widely to the Bench and Bar of the country who have been requested to submit their comments and suggestions not later than December 31, 1963. Meanwhile, the Advisory Committee is proceeding with its study of the remaining Rules of Criminal Procedure not involved in the foregoing amendments and hopes to have its recommendations with respect to those rules formulated within the coming year.

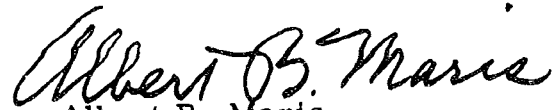
Advisory Committees on Civil, Admiralty, Bankruptcy
and Appellate Rules

Each of these Advisory Committees has held a meeting since our last report and each of them is giving active consideration to the study and formulation of amendments to the rules of procedure within its jurisdiction. None of these Committees, however, has formulated any definitive amendments to be submitted to the Bench and Bar at this time.

It should be added that the Advisory Committees on Civil Rules and Admiralty Rules, and their Reporters, are working closely together in the program of unifying the Civil and Admiralty Rules of Practice, and substantial and gratifying progress is being made in this project. The Committees are looking forward to the probability of being able to

agree at meetings to be held next Fall upon the amendments of the Civil Rules, which are necessary to this end.

Respectfully submitted,


Albert B. Maris
Chairman

February 25, 1963

Final Report of the Special
Committee on Evidence

To the standing Committee on Rules of Practice and Procedure of the
Judicial Conference of the United States:

The special Committee on Evidence met in the Supreme Court
Building on January 17, 1963. The following members were present:

James Wm. Moore, Chairman
Dean Acheson
Phillip Forman
Walter L. Pope

Others attending were Albert B. Maris, Chairman of the
standing Committee on Rules of Practice and Procedure; Dean Mason
Ladd and Peyton Ford, members of the standing Committee; Aubrey
Gasque, Executive Secretary of the Rules Committee; Will Shafroth
and Joseph F. Spaniol, Jr., of the Administrative Office of the
United States Courts; Thomas F. Green, Jr., Reporter of the special
Evidence Committee and Howard P. Fink, Assistant to the Reporter.

The Committee considered the replies which have been re-
ceived from the bench and bar in response to the Preliminary Re-
port of February 1962.

The deliberations of the Committee were directed princi-
pally to the feasibility and desirability of having evidence rules
which would be uniform throughout the Federal Court system; and

whether the existing statutory authority was sufficient to encompass the promulgation of such rules.

After full discussion of the views of those present, and of the comments received, it was decided that the time has now arrived for an advisory committee to be formed to go forward with the task of drafting such rules. Moreover, it was the view of the Committee that existing statutory authority under the Rule-making Act encompasses the promulgation of evidence rules for the Federal courts, and that further legislative action was not needed.

The Committee voted unanimously that:

"1. Rules of evidence applied in the Federal courts should be improved; and

2. Rules of evidence, which would be uniform throughout the Federal court system, are both advisable and feasible."

It was the consensus of the Committee that an advisory committee on evidence should be broadly representative of all segments of the profession, and that the size of such a committee should approximate that of the Advisory Committee on Civil Rules.

The special Committee on Evidence, having completed its assigned task, respectfully submits this, its final report, and asks to be discharged.

Dean Acheson
Phillip Forman
* John C. Pickett
Walter L. Pope
E. Barrett Prettyman
James Wm Moore, Chairman

* Judge Pickett has expressed himself as in favor of the appointment of an advisory committee to draft rules of evidence but was not available for consideration of the committee report.